

REMARKS

Applicants thank the Examiner for deeming claims 24-37, 46, 47, and 57-68 allowable. Applicants have amended claims 48 and 77 to recite the phrase “wherein said polynucleotide encodes a polypeptide which inhibits angiogenesis.” Support for this amendment can be found throughout the specification as filed, for example, on page 1, lines 19-20. Accordingly, no new matter has been added.

Claims 24-37, 46-68 and 77-85 are pending.

I. Rejection of Claims 77-85 Under 35 U.S.C. §112, second paragraph

On page 2 of Paper No. 29, claims 77-85 are rejected as allegedly being indefinite. Specifically, the Examiner states:

Claim 77 recites the limitation “wherein said polynucleotide encodes a polypeptide having thrombospondin activity”. The metes and bounds of the claim cannot be determined as no definition of thrombospondin activity has been made in the specification, and the art recognizes that thrombospondins have cell adhesion, platelet aggregation, cell proliferation, vascular growth factor and tissue repair activities as well as activities directed toward angiogenesis.

Applicants submit that in an effort to more clearly describe the desired subject matter, claim 77 has been amended to recite “wherein said polynucleotide encodes a polypeptide which inhibits angiogenesis.” Support for this amendment can be found throughout the specification as filed, for example, at lines 19-20 on page 1, which states that the METH1 protein of the instant invention is related to thrombospondin and is anti-angiogenic. On page 95, lines 11-12 of the specification it is further disclosed that METH1 of the instant invention shares sequence homology with thrombospondin-1 which was known in the art at the time of filing to inhibit angiogenesis (see references AU-AV submitted herewith). Applicants believe that the above described claim amendment overcomes this rejection under 35 U.S.C. §112, second paragraph, and respectfully request its reconsideration and withdrawal.

II. Rejection of Claims 48-56 and 77-85 Under 35 U.S.C. §112, first paragraph

A. Claims 77-85: New matter

At page 2, section (5) and page 3, section (A) of Paper No. 29, the Examiner rejects claims 77-85 as allegedly containing new matter. Specifically, the Examiner states that the phrase “wherein said polynucleotide encodes a polypeptide having thrombospondin activity” encompasses activities regarding cell adhesion, platelet aggregation, cell

proliferation and tissue repair activities not supported by the specification. Applicants respectfully disagree with this rejection.

Applicants submit that the involvement of the polypeptides of the instant invention in tissue remodeling and cell proliferation is disclosed in the instant specification, for example, on page 5, first paragraph, or in prior applications to which the instant application claims priority and incorporates by reference, for example, page 2, line 18 of application 08/845,496. However, as discussed above, claim 77 has been amended to recite the phrase “wherein said polynucleotide encodes a polypeptide which inhibits angiogenesis.” This claim language is fully supported by the specification as filed. Applicants believe that this amendment overcomes the rejection under §112, first paragraph, and respectfully request its reconsideration and withdrawal.

B. Claims 48-56: Written Description

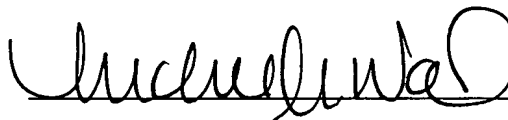
At page 2, section (5) of Paper No. 29, claims 48-56 are rejected as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention. Applicants submit that claim 48, drawn to a polynucleotide sequence at least 95% identical to the nucleotide sequence of SEQ ID NO:125, has been amended to recite, “wherein said polynucleotide encodes a polypeptide which inhibits angiogenesis.” This amendment is fully supported throughout the specification as filed, for example, on page 1, lines 19-20. Applicants believe that this amendment overcomes the rejection of claims 48-56 under 35 U.S.C. §112, first paragraph, and respectfully request its reconsideration and withdrawal.

CONCLUSION

Applicants respectfully request that the remarks of the present response be entered and made of record in the present application. If any additional information is needed, Applicants respectfully request that the Examiner contact the undersigned to facilitate prosecution. The application is believed to be in condition for allowance and early notice to that effect is earnestly solicited. If a fee is required in connection with this paper, please charge Deposit Account No. 08-3425 for the appropriate amount.

Date: 8/13/03

Respectfully submitted,



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Enclosures
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